

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA	§	
McCOLLUM, individually, and STEPHANIE	§	
KINGREY, individually and as independent	§	
administrator of the Estate of LARRY GENE	§	
McCOLLUM,	§	
PLAINTIFFS	§	
	§	
v.	§	CIVIL ACTION NO.
	§	4:14-cv-3253
	§	JURY DEMAND
BRAD LIVINGSTON, JEFF PRINGLE,	§	
RICHARD CLARK, KAREN TATE,	§	
SANDREA SANDERS, ROBERT EASON, the	§	
UNIVERSITY OF TEXAS MEDICAL	§	
BRANCH and the TEXAS DEPARTMENT OF	§	
CRIMINAL JUSTICE.	§	
DEFENDANTS	§	

PLAINTIFFS' OPPOSED MOTION FOR LEAVE TO FILE
CONSOLIDATED RESPONSE TO MOTIONS FOR SUMMARY JUDGMENT
AND APPENDIX OUT OF TIME

Plaintiffs respectfully request leave of Court to file their Consolidated Response to Defendants' Motions for Summary Judgment, Doc. 297, approximately 3 hours and 12 minutes late, and the Appendix to the same, Docs. 300-305, approximately 7 hours late. Defendant UTMB is opposed. Plaintiffs are still attempting to confer with counsel for the TDCJ Defendants.

Plaintiffs intended and expected to file this Response slightly after 10:00 pm CST; however, technical difficulties prevented that from occurring. These difficulties included unexpected delays in assembling, compressing, internally synchronizing, and submitting the documents in light of the large Plaintiffs' appendix. The lengthy appendix to the Response is merited due to the complexity of the allegations and conduct in this case. At the very least, the

Defendants raise a number of arguments that, in Plaintiffs' view, presuppose material facts that are in dispute, and it is Plaintiffs' burden to present evidence regarding each dispute to the Court. Unfortunately, the length of the Plaintiffs' appendix – 7,424 pages – created more problems than predicted in completing and filing the documents. In addition to the technical and logistical challenge in assembling them, the size of the appendix appeared to cause an ECF timeout error that counsel has not previously received for other large, similarly structured filings. As these obstacles were encountered, counsel worked diligently through the night to file the response as quickly as possible and before the beginning of business hours.

As the Response and Appendix were filed just hours after the deadline, Defendants will have suffered no unfair prejudice. The delay, which counsel worked diligently to mitigate, arose entirely in the course of the legal work by counsel, and not due to the Plaintiffs themselves.

Accordingly, the Plaintiffs respectfully request that the Court grant leave to file the Response and Appendix out of time.

Dated: September 8, 2016.

Respectfully submitted,

EDWARDS LAW
The Haehnel Building
1101 East 11th Street
Austin, TX 78702
Tel. 512-623-7727
Fax. 512-623-7729

By /s/ Jeff Edwards
JEFF EDWARDS
State Bar No. 24014406
Attorney-in-Charge
Scott Medlock
State Bar No. 24044783
David James
State Bar No. 24092572

Federal ID No. 2496580

Michael Singley
Texas Bar No. 00794642

THE SINGLEY LAW FIRM, PLLC
4131 Spicewood Springs Rd., Ste. O-3
Austin, Texas 78759
Tel. (512) 334-4302
Fax. (512) 727-3365

Abigail Frank
Texas Bar No. 24069732
Southern District No. 1076613
Wayne Krause Yang
State Bar No. 24032644
James C. Harrington
State Bar No. 09048500

TEXAS CIVIL RIGHTS PROJECT
1405 Montopolis Dr.
Austin, TX 78751
Tel. (512) 474-5073
Fax. (512) 474-0726

Wallis Nader
Texas Bar No. 24092884
Southern District No. 2609150

TEXAS CIVIL RIGHTS PROJECT—
HOUSTON
2006 Wheeler Ave
Houston, TX 77004
Tel. (832) 767-3650
Fax. (832) 554-9981

Eliot Shavin
State Bar No. 18138200
2600 State Street
Dallas, Texas 75204
214-522-2010 (telephone)
214-720-9594 (fax)
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Southern District of Texas.

By /s/ Jeff Edwards
JEFF EDWARDS

CERTIFICATE OF CONFERENCE

By my signature below, I certify that I corresponded with counsel for Defendant UTMB, who are opposed to the relief requested. I have not been able to confer with the TDCJ Defendants' counsel. Plaintiffs will endeavor to confer on this topic and advise the Court promptly.

By /s/ Scott Medlock
Scott Medlock